

FEB 12 1979

MICHAEL RUBAK, JR., CLERK

IN THE

Supreme Court of the United States

October Term, 1978

No.

78-1254
Misc.

CLARENCE E. EDMOND,

Petitioner,

vs.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY,
AND HONORABLE GEORGE H. BARLOW,
CHIEF JUDGE THEREOF,*Respondents.*

**MOTION FOR LEAVE TO FILE PETITION
FOR WRIT OF PROHIBITION AND
PETITION FOR WRIT OF PROHIBITION**

CLARENCE E. EDMOND, *PRO SE*
38 Pleasure Bay Apartments
Atlantic Avenue
Long Branch, New Jersey 07740
(201) 229-1962

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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

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vs.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY,
AND HONORABLE GEORGE H. BARLOW,
CHIEF JUDGE THEREOF,

Respondents.

MOTION FOR LEAVE TO FILE PETITION
FOR WRIT OF PROHIBITION

The petitioner moves the Court for leave to file the petition for a writ of prohibition hereto annexed; and further moves that an order and rule be entered and issued directing the Honorable The United States District Court for the District of New Jersey, and the Honorable George H. Barlow, Chief Judge of the United States District Court for the District of New Jersey, to show cause why a writ of prohibition should not be issued against them in accordance with the prayer of said petition, and why your petitioner should not have such other and further relief in the premises as may be just and meet.

Respectfully submitted,

CLARENCE E. EDMOND, *PRO SE*
38 Pleasure Bay Apartments
Atlantic Avenue
Long Branch, New Jersey 07740
(201) 229-1962

IN THE
SUPREME COURT OF THE UNITED STATES

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CLARENCE E. EDMOND,

Petitioner,

vs.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY,
AND HONORABLE GEORGE H. BARLOW,
CHIEF JUDGE THEREOF,

Respondents.

PETITION FOR A WRIT OF PROHIBITION
TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY, AND
THE HONORABLE GEORGE H. BARLOW,
CHIEF JUDGE OF THE UNITED STATES
DISTRICT COURT FOR THE DISTRICT
OF NEW JERSEY

The Petitioner, Clarence E. Edmond, prays that a Writ of Prohibition issue to restrain the United States District Court for the District of New Jersey from further interfering with the execution of its own orders in civil action no. 78-1131 now pending in the said court.

JURISDICTION

On January 17, 1979 the Honorable George H. Barlow, Chief Judge of the United States District Court for the District of New Jersey, admitted that he was unlawfully interfering with the execution of a number of orders he had entered in favor of petitioner in civil action no. 78-1131 now pending in the district court. Petitioner requested that the court desist and refrain from any further such interference, since it not only constituted violations of certain rights secured by the Constitution of the United States but also posed a substantial threat to future enforcement of the laws of the land, and thus exceeded the legitimate powers conferred upon the court by law.

The court, since that time, and specifically as of February 6, 1979, has persisted in interfering as aforesaid, and as such has subjected itself to a proper exercise of this Court's power of supervision. This Petition for Prohibition was filed less than 90 days from the date the cause of action arose. The jurisdiction of this Court rests on 28 U.S.C., section 1651(a).

STATEMENT OF THE CASE

1. On May 25, 1978 petitioner filed a claim for money damages in the United States District Court for the District of New Jersey against the Shore Regional High School district (in the county of Monmouth), the state Division on Civil Rights, the Department of the Public Advocate, the Superior Court of New Jersey (Appellate Division) and a number of officials, attorneys and judges formerly and/or presently connected with those entities. Petitioner alleged in the complaint that the defendants therein named had, over a period of nearly ten years, variously wronged him by having violated certain rights, privileges and immunities secured by the Fourteenth Amendment to the Constitution of the United States, and he demanded a trial by jury to establish certain material facts respecting the extent of the defendants' liability as to the contents of the complaint. Respondent Barlow was assigned to the case (civil no. 78-1131).

2. The defendants defaulted, by failing to appear, and petitioner subsequently instituted an *ex parte* proceeding for a judgment by default and for a directed verdict. However, a deputy court clerk unlawfully deprived petitioner of a hearing on the motion, whereupon petitioner, by letter dated September 8, 1978, brought the matter to the attention of respondent, requesting that he remedy the situation by entering in the case, with prejudice, a number of orders proposed in said letter.

Respondent, acting clearly within the scope of his discretionary authority, on September 15, 1978 granted petitioner's request, and entered, among other things, orders directing and compelling the defendants to forward to petitioner, by September 29, 1978, a certified

check for the amount of TWO HUNDRED FIFTY MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$250,500,000), as if such amount had been awarded petitioner by a jury of his peers, and directing the defendants, if they failed to comply, to report to the office of the United States Marshal at Trenton, New Jersey, to be arrested and jailed until the aforesaid damages were paid. (Petitioner's letter of September 8th is attached hereto as Appendix A.)

3. The defendants failed to forward the check referred to in the preceding paragraph, and petitioner, as a result thereof, sent letters, dated October 11th, and October 17th, 1978, to the clerk of the court and to the United States marshal to ascertain from them, respectively, whether the defendants had been notified of the aforesaid judgment, and whether they had reported to the marshal as they had been ordered by the court to do, should they fail to comply with the said orders.

Both the clerk and the marshal, by operation of law, confirmed the fact of the defendants' failure to have complied with said orders of court. (Petitioner's letters of October 11th and October 17th are attached hereto as appendices B and C.)

4. Petitioner, by letter dated October 24, 1978, brought the information obtained as aforesaid to the attention of respondent, and requested additional relief, in the form of orders, to force compliance with the pertinent aspects of the aforesaid judgment.

Respondent, recognizing that the defendants should indeed be jailed, granted the relief demanded in said letter. (Petitioner's letter of October 24th is attached hereto as Appendix D.)

5. Again the defendants flouted respondent's properly entered commands, and, having received nothing from the marshal indicating that he had complied with the order compelling him to jail the defendants and keep them jailed until the aforesaid damages were paid, petitioner sent the marshal a letter, dated December 15, 1978, to ascertain, essentially, the reason for his failure to have acted as directed by order of the court.

The marshal, again by operation of law, indicated that he had deliberately and without legal justification refused to arrest and jail the defendants. (Petitioner's letter of December 15th is attached hereto as Appendix E.)

6. By letter dated December 22, 1978, petitioner informed respondent of the marshal's deliberate and unjustified refusal to have complied with the pertinent order aforesaid, and requested, among other things, that respondent submit to petitioner a written proposal as to the action he might take against the marshal should the latter again refuse to comply with his properly entered commands.

The marshal again failed to comply, and respondent, likewise, failed to submit the said written proposal, in total disregard of petitioner's express demand for such a proposal as to respondent's intentions. (Petitioner's letter of December 22nd is attached hereto as Appendix F.)

7. Petitioner, by letter dated January 11, 1979, pointed out to respondent, in essence, that prevailing circumstances suggested that he had interfered in the past, and was still interfering, with the prompt execution of his own orders, and petitioner requested of respondent a written proposal as to the action he might take against the marshal for the latter's unlawful refusals to have jailed the defendants, and imposed the condition that if re-

spondent failed to submit such a proposal, his failure so to do would establish as fact the aforesaid [alleged] interference.

Respondent, as previously, failed to respond, and thus admitted that he was unlawfully interfering with the execution of his own orders. (Petitioner's letter of January 11th is attached hereto as Appendix G.)

8. And finally, by letter dated January 18, 1979, petitioner requested of respondent that he desist and refrain from further interfering as aforesaid, in any manner whatsoever, pointing out that such interference was not only violative of the Constitution of the United States but also a substantial threat to future enforcement of the laws of the land, and thus in excess of the court's legitimately conferred authority.

To determine whether respondent would honor said request, petitioner demanded additional relief in the form of a number of orders, and gave respondent notice that if the defendants and/or the marshal failed to comply with those orders, their failure so to do would be recognized and treated as a refusal on his part to stop interfering with the execution of said orders.

Both the defendants and the marshal again failed to comply. (Petitioner's letter of January 18th is attached hereto as Appendix H.)

REASONS FOR GRANTING THE WRIT

The Supreme Court of Ohio, in 1933, stated in *Silliman v. Court of Common Pleas of Williams County*, 126 Ohio St. 338, 185 N.E. 420, 421: "Like all other prerogative writs, prohibition is to be used . . . for the furtherance of justice and to secure order and regularity in judicial proceedings, and should be used . . . in cases of extreme necessity." [and that] "The function of the writ of prohibition is to restrain inferior courts or tribunals from exercising jurisdiction beyond that legally conferred, and it will be awarded . . . when there is no other available adequate remedy." And, in 1914, the Supreme Court of New Mexico ruled in *State ex rel. Harvey v. Medler*, 19 N.M. 252, 142 P. 376, 377: "A writ of prohibition is . . . issued . . . to prevent [an inferior court] from exceeding its jurisdiction . . . by prohibiting it from going beyond its legitimate powers in a matter of which it has jurisdiction."

Petitioner contends that the action of the district court heretofore recounted not only violates specific provisions of the Constitution of the United States but also exceeds the legitimate powers conferred upon the court by law, in a manner not remediable through the ordinary course of appeal, and departs so radically from the usual character of respectable judicial conduct as to call for an immediate exercise of this Court's power of supervision. The action of the district court is therefore one which this Court can and should correct by a writ of prohibition. And because the Supreme Court alone among the federal courts is endowed with this superintending control, the relief demanded herein is not available in any other court.

WHEREFORE, petitioner prays:

1. That a writ of prohibition issue from this Court directed to the Honorable United States District Court

for the District of New Jersey, and the Honorable George H. Barlow, Chief Judge of said court, requiring said Honorable George H. Barlow to show cause on a day to be fixed by this Court why prohibition should not issue from this Court directing said Honorable George H. Barlow to desist and refrain from further interfering with the execution of his own orders in the aforesaid civil action no. 78-1131.

2. That petitioner have such additional relief and process as may be necessary and appropriate in the premises.

Respectfully submitted,

CLARENCE E. EDMOND, *PRO SE*

APPENDIX A

LETTER DATED SEPTEMBER 8, 1978 TO HONORABLE GEORGE H. BARLOW, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, FROM CLARENCE E. EDMOND

Honorable George H. Barlow, Chief
Judge, United States District Court
for the District of New Jersey
P.O. Box 819
Trenton, New Jersey 08605

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Judge Barlow:

On May 25, 1978 I filed a claim for money damages in the United States District Court for the District of New Jersey against the Shore Regional High district (in the County of Monmouth), the state Division on Civil Rights, the Department of the Public Advocate, the Superior Court of New Jersey (Appellate Division) and a number of officials, attorneys and judges formerly and/or presently connected with those entities. I alleged in the complaint, in seven counts, that the defendants therein named had, over a period of nearly ten years, variously wronged me by having violated certain rights, privileges and immunities secured by the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, and I demanded a trial by jury to establish certain material facts respecting the extent of the defendants' liability as to the contents of the com-

plaint. The defendants' answering paper was returnable by June 15, 1978. They failed, however, to answer by that date.

On August 1, 1978 I appeared in the office of the clerk for the purpose of filing a "notice of *ex parte* motion" for a judgment by default and for a directed verdict in the case. The date noticed in my moving papers for argument was August 21, 1978. Deputy Clerk Michael D. Shanklin informed me, however, both orally and by typewritten statement, that for two reasons the case would not be placed on the motion calendar for that date: (1) that I had failed to comply with local Rule 12 of this Court by not presenting a proof or acknowledgment of service, and (2) that the designated return day was not an argument day, since the Court was in summer recess.

Mr. Shanklin further informed me that the next available motion day would be September 5, 1978—in accordance with Rule 12(C) of the Rules of this Court.

Both Mr. Shanklin and the deputy in charge, Mr. A. Ronald Nau, persistently asserted, over my objections, that the aforesaid defendants (a) had properly entered appearances herein; (b) had properly applied for extensions of time within which to answer the complaint or otherwise plead; (c) had properly been granted such extensions by you, your Honor; and (d) that the defendants affiliated with Shore Regional High School had properly filed an answer to the complaint.

Mr. Shanklin filed my moving papers but adamantly refused to schedule the motion for hearing on September 5th, directing me, instead, to re-schedule my motion and to serve notice thereof on the defendants. I refused to do so, premising my position on a rule of law relieving the movant in a given proceeding of the obligation to serve

notice of such proceeding on his or her adversary where the latter has failed to appear in the principal action.

To test the alleged legality of Mr. Shanklin's position, your Honor, I sent him a letter, dated August 3, 1978 (a copy of which I forwarded to you), in which I pointed to an affidavit wherein I had sworn that summonses and complaints had been properly served upon the defendants herein and that the defendants' answer to the complaint was returnable by June 15, 1978. I had further sworn in said affidavit that the defendants had not answered or otherwise moved as to the claim [within the time prescribed by the rules]; nor, in fact, had they appeared in the action [by way of counsel]. Moreover, I acknowledged in said letter to Mr. Shanklin that a refusal on his part to place my case on the calendar for hearing on September 5th would indeed be legitimate had the defendants properly appeared herein, but that because of the aforesaid affidavit asserting the contrary, the only lawful course of action open to the office of the clerk at that point was to allow the proceeding in question to go before the Court in the normal way of such matters, for to do otherwise would be to unlawfully subject me to the deprivation of my constitutional right to due process of law. I further alleged in said letter that if after the entry of a judgment adverse to the defendants they believed the Court had acted on the basis of a false affidavit, they might apply to the Court for relief from such judgment, pursuant to Rules 55(c) and 60(b) of the Federal Rules of Civil Procedure.

I then gave Mr. Shanklin notice that if by Thursday, August 10, 1978, he failed to provide me with a written statement setting forth a sound legal basis for his refusal to schedule the motion in question for hearing on Sep-

tember 5th, I should properly expect it to be so placed, and that, accordingly, I should equally properly appear before the Court on that date to argue my cause.

Mr. Shanklin failed to provide me with the statement requested, and, in accordance with my previously stated intention, I appeared in your courtroom at the appointed time. You will recall, your Honor, that you entered the courtroom, took your place on the bench, ruled on one case and then retired. Shortly thereafter I went to the office of the clerk to inquire as to why you had not entertained my motion, and I was informed by Mr. Shanklin that it was because I had not served notice thereof on the defendants and that he, therefore, had not scheduled the matter for hearing.

In consideration of the foregoing, your Honor, it is respectfully submitted here, for the following reasons, that Mr. Shanklin has unlawfully deprived me of my constitutional right to be heard in a properly instituted proceeding. As has been noted hereinabove, Mr. Shanklin failed to provide me with the written statement requested setting forth a sound legal basis for his refusal to schedule my case for hearing on September 5th, and his failure so to have done constituted an admission on his part that he was without lawful authority to refuse to so schedule it. Moreover, since I had indicated in my letter of August 3rd that in the absence of such a statement I should properly expect the case to be scheduled for hearing on September 5th, and that I should equally properly appear before the Court on that date to argue my cause, Mr. Shanklin's failure to have legally justified his position with respect thereto induced me to rely on said failure and to appear in court in accordance with my previously stated intention, since that was my sole means of carrying the case forward.

This inducement-reliance relationship involving Mr. Shanklin and me clearly comprehends a species of equitable estoppel; in other words, your Honor, Mr. Shanklin's silence as to the legal issues raised in the aforesaid letter of August 3rd confirmed the allegations contained therein and constituted a representation by him that the motion in question would indeed be scheduled for hearing on September 5th; and my reliance, and consequent action, in respect thereof legally barred him from doing *after* August 10th that which he should have done (in writing) between August 3rd and August 10th.

It is further submitted here that, by having unlawfully deprived me of a hearing herein, Mr. Shanklin has necessarily subjected me to the deprivation not only of the relief demanded on the said motion proceeding but also of that demanded in the aforesaid complaint.

Because the Court was in summer recess when I sent my letter of August 3rd to Mr. Shanklin, there exists a remote possibility that, for some imponderable reason, you never received the copy of said letter that I forwarded to you, so I cannot fairly impugn your failure on September 5th to have heard and ruled on the motion in question, presumed to have been scheduled for hearing on that date; I can merely invoke the power reposed in this Court to remedy the current state of affairs herein.

WHEREFORE, your Honor, please take notice that unless by Friday, September 15, 1978, you provide me with a written statement setting forth a sound legal basis for Mr. Shanklin's refusal to have scheduled the aforesaid motion for hearing on September 5th, your failure so to do shall be recognized and treated in all respects not only as establishing as fact all the allegations contained in this letter but also as an order directing the clerk of this Court

to notify the defendants herein, in the most expeditious manner possible, that a judgment has been entered herein against them, with prejudice, as follows:

(A) An ORDER declaring and adjudging that the defendants, and each of them (except defendant Elizabeth McLaughlin), have injured me in the manner and to the extent described in the complaint, in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, and that I am entitled, therefore, to recover the various types of damages demanded in the complaint;

(B) An ORDER directing and compelling the defendants to forward to me on or before Friday, September 29, 1978, damages in the form of a certified check for the amount of TWO HUNDRED FIFTY MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$250,500,000), as if such amount has been awarded me by a jury of my peers;

(C) An ORDER providing (1) that if the defendants fail to carry out the directive set forth in (B) above, each of them, personally (except defendant Elizabeth McLaughlin), shall report to the office of the United States Marshal, Federal Building, East State Street, Trenton, New Jersey, by 12:00 o'clock noon on Tuesday, October 3, 1978, to be taken into custody and placed in a suitable detention facility and detained therein until such time as they have paid the aforesaid damages; and (2) that in the case of failure on the part of the defendants in question to report to the office of the Marshal as directed herein, they each shall be held in contempt of court, and shall pay to the clerk of the court, by money order or check (made payable to the Treasurer of the United States), a fine in the amount of ONE HUNDRED DOLLARS (\$100) per day for as long as they fail so to report;

(D) An ORDER directing and compelling the United States Marshal to certify in writing whether all the defendants in question have complied with (C)(1) above, and if not, who among them has not, and where the defendants who have so complied are being detained, the original of said certificate to be forwarded to me, and a copy thereof to the office of the clerk, no later than Friday, October 6, 1978;

(E) An ORDER authorizing me, in my discretion, to employ any lawful means necessary, to any extent necessary, to inform the American public of the deplorable and scandalous state of affairs herein; and

(F) An ORDER providing that I may institute from time to time such other and further proceedings as may appear to me to be appropriate and necessary to insure compliance with any or all of the provisions hereof.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Office of the Clerk, U.S.D.C.
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals for
the Third Circuit
cc: Solicitor General
cc: United States Marshal

APPENDIX B

LETTER DATED OCTOBER 11, 1978 TO
MR. ANGELO W. LOCASCIO, CLERK,
UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY, FROM
CLARENCE E. EDMOND

Mr. Angelo W. Locascio, Clerk
United States District Court
for the District of New Jersey
P.O. Box 819
Trenton, New Jersey 08605

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Mr. Locascio:

The record in the matter entitled above reveals that on September 15, 1978 the Honorable George H. Barlow, Chief Judge, United States District Court for the District of New Jersey, entered an order in the said matter directing you, the clerk of the court, to notify the defendants [and each of them] herein that a judgment has been entered herein against them, with prejudice. The said judgment comprised, among other things, an order directing and compelling the defendants to forward to me on or before Friday, September 29, 1978, damages in the form of a certified check for the amount of TWO HUNDRED FIFTY MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$250,500,000), as if such amount had been awarded me by a jury of my peers. To date I have not received the said check, which fact inevitably raises two important questions: (1) whether you in fact notified

the defendants, and each of them, of the aforesaid judgment; and (2) whether the defendants have boldly disregarded that judgment.

In light of the foregoing, I am hereby requesting that you forward to me, no later than Monday, October 16, 1978, a written statement in answer to the following questions: (1) Did you in fact notify the defendants, and each of them, of the judgment herein entered against them by the Court on September 15, 1978, as you were directed by the Court to do? (2) If you did not so notify the defendants, what was the legal basis for your failure so to have done?

In the event you do not address the preceding questions directly and fully on or before the date specified above, I will assume that you did, in fact, notify the defendants, and each of them, of the judgment in question.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Hon. George H. Barlow, Ch. J., U.S.D.C.
cc: Office of the United States Marshal
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals for
the Third Circuit
cc: Solicitor General

APPENDIX C

**LETTER DATED OCTOBER 17, 1978 TO
MR. SAMUEL NAPLES, SUPERVISOR,
OFFICE OF THE UNITED STATES
MARSHAL, FROM CLARENCE E. EDMOND**

Mr. Samuel Naples, Supervisor
Office of the United States Marshal
P.O. Box 945
East State Street
Trenton, New Jersey 08606

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Mr. Naples:

Last month I forwarded to your office a copy of a letter dated September 8, 1978 addressed to the Honorable George H. Barlow, Chief Judge, United States District Court for the District of New Jersey. That letter contained a number of proposed "ORDERS" constituting a judgment in the matter above, which orders were put into effect by Judge Barlow on September 15, 1978. In order to bring said judgment to the attention of the defendants, Judge Barlow directed the clerk of the court to notify each of them [inasmuch as they were without counsel] that the judgment in question had been entered against them.

Among the said orders was one directing and compelling the defendants to forward to me on or before Friday, September 29, 1978, a certified check for the amount of TWO HUNDRED FIFTY MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$250,500,000), as if such

amount had been awarded me by a jury of my peers. Another provided that if the defendants failed to comply with that particular order, each of them, personally (except defendant Elizabeth McLaughlin), should report to your office . . . by 12:00 o'clock noon on Tuesday, October 3, 1978, to be taken into custody and placed in a suitable detention facility and detained therein until such time as the aforesaid damages were paid.

The clerk of the court, Mr. Angelo W. Locascio, recently indicated to me that between September 15th and September 29th, 1978, he notified each of the defendants of the aforesaid judgment, as he had been directed by the Court to do.

I have yet, however, to receive the check aforesaid, which leads me reasonably to suspect that the defendants never sent it to me.

In consideration of the foregoing, I am hereby requesting that you forward to me, no later than Friday, October 20, 1978, a written statement indicating whether the defendants reported to your office and were there taken into custody and detained some place in compliance with the orders herein entered by Judge Barlow on September 15th.

If by the date specified above you do not provide me with the statement requested, I will assume that the defendants did not report to your office as they were directed by order of the Court to do.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Hon. George H. Barlow, Ch. J., U.S.D.C.
cc: Office of the Clerk, U.S.D.C.
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals for
the Third Circuit
cc: Solicitor General
cc: Mr. Myron A. Farber

APPENDIX D

LETTER DATED OCTOBER 24, 1978 TO
HONORABLE GEORGE H. BARLOW, CHIEF
JUDGE, UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY, FROM
CLARENCE E. EDMOND

Honorable George H. Barlow, Chief
Judge, United States District Court
for the District of New Jersey
P.O. Box 819
Trenton, New Jersey 08605

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Judge Barlow:

The purpose of this letter is to call your attention to a grave situation respecting a number of orders entered by you in the above-entitled matter on September 15, 1978. On that date, you recall, you directed the clerk of the court, Mr. Angelo W. Locascio, to notify the defendants herein that a judgment, as of that date, was entered herein against them, with prejudice. One of the orders constituting said judgment required that the defendants forward to me on or before September 29, 1978 damages in the form of a certified check for the amount of TWO HUNDRED FIFTY MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$250,500,000), as if such amount had been awarded me by a jury of my peers. Another of said orders required that the defendants report to the office of the United States Marshal by 12:00 o'clock noon on October 3, 1978 to be taken into custody

and promptly jailed, in the case of failure on their part to pay the said damages as directed. (I vigorously applauded the latter order, for it followed a classic legal tradition of this country, wherein any citizens found in contempt of the law are routinely jailed for noncompliance with properly entered judicial commands.)

Mr. Locascio, aforementioned, recently indicated to me that between September 15th and September 29th, 1978, he notified each of the defendants of the aforesaid judgment, as he had been directed by the Court to do.

Not having received the damages in question, I sent a letter to Mr. Samuel Naples, Supervisor of the office of the United States Marshal at Trenton, New Jersey, to ascertain whether the defendants had reported to his office in compliance with the pertinent order herein of September 15th. On October 20, 1978 Mr. Naples indicated to me that the defendants had failed to comply with that order.

One of the reasons I demanded said damages, your Honor, was that, as proclaimed in the complaint herein, for nearly ten years I was the victim of perhaps the most extraordinary case of racial discrimination and of character defamation ever, with all manner of evil things having been wrongfully published and republished about me, along with the utterance of numerous wicked and malicious comments and recommendations tending, and intended, to injure me in my good name, fame, character and personal and professional reputation and standing. And I now find it absolutely essential that the damages in question be paid me forthwith, for, although by operation of the law the matters previously in litigation herein have been conclusively resolved in my favor, and taking men as they are with their narrow prejudices, unless I receive the damages aforesaid, the general public who *are* aware of this case but who lack understanding of, or even the will

to understand, the complex twistings and turnings of the laws here involved will forever harbor a quantum of doubt as to the absolute validity of my claims.

IN CONSIDERATION WHEREOF I am hereby requesting that additional relief be entered in the matter above as follows:

(A) An ORDER directing the clerk of the court, immediately upon receipt of a copy of this letter, to provide the office of the United States Marshal with information as to where the defendants herein can be located;

(B) An ORDER directing the clerk of the court to notify the defendants promptly that they have been commanded by the Court to forward to me no later than Wednesday, November 1, 1978, the damages they were to have paid me on or before the 28th of last month, and, on the same date (November 1st), to forward to the Court an affidavit, a certificate, or other such instrument, solemnly declaring therein that the aforesaid damages have been paid in the manner heretofore prescribed by the Court, with copies of such instrument to the Marshal aforesaid and to me;

(C) An ORDER providing that if the defendants fail to comply with the provisions set forth in (B) above, the Marshal shall arrest them forthwith, be it at their places of employment, at their homes, or elsewhere, as the situation dictates, and place them in a suitable detention facility and detain them there until such time as the damages in question have been paid, said arrests to be completed by Wednesday, November 8, 1978; and

(D) An ORDER directing and compelling the Marshal aforesaid to certify in writing when and where the defendants are in custody (if it be necessary that he arrest them), the original of said certificate to be forwarded to me, and a copy thereof to the clerk of the court.

If by Saturday, October 28, 1978, I have not received from the Court a written statement setting forth a sound legal basis as to why the defendants herein should not be jailed for noncompliance with valid orders of court, I will properly expect full compliance with the pertinent orders hereinabove set forth.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Office of the Clerk, U.S.D.C.
cc: Office of the United States Marshal
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals for
the Third Circuit
cc: Solicitor General
cc: Mr. Myron A. Farber

APPENDIX E

LETTER DATED DECEMBER 15, 1978 TO
MR. SAMUEL NAPLES, SUPERVISOR,
OFFICE OF THE UNITED STATES
MARSHAL, FROM CLARENCE E. EDMOND

Mr. Samuel Naples, Supervisor
Office of the United States Marshal
P.O. Box 945
East State Street
Trenton, New Jersey 08606

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Mr. Naples:

Please refer to my letter dated October 24, 1978 and addressed to the Honorable George H. Barlow, Chief Judge, United States District Court for the District of New Jersey, a copy of which was delivered to your office on October 27, 1978. To date I have not received from the defendants in the above-entitled matter the money damages referred to in the said letter. Nor have I received from said defendants any form of proof that the damages in question were in fact forwarded to me on November 1, 1978 as ordered by Judge Barlow on or about October 27, 1978. Nor have I received from you certification that you arrested and jailed the said defendants in compliance with the pertinent order herein entered by Judge Barlow on or about that date (October 27th).

In consideration of the foregoing, I am hereby requesting that you promptly forward to me complete and direct answers to the following questions: (1) Did the clerk of

the court, Mr. Angelo W. Locascio, provide you with information as to where each of the aforesaid defendants could be located, as he was ordered by Judge Barlow to do? (2) Have you received from the defendants a copy of either an affidavit, a certificate or other such instrument indicating that they in fact *have* forwarded to me the aforesaid damages, as they were ordered by Judge Barlow to do? (3)(a) Did you arrest and jail the said defendants as you were ordered by Judge Barlow to do? (b) If you did not arrest and jail the said defendants, what was the legal basis for your failure so to have done?

If by Friday, December 22, 1978, I have not received from you direct and complete answers to the foregoing questions, I will properly assume that (a) Mr. Locascio, the clerk of the court, did, in fact, provide you with the information referred to in (1) above; (b) You have not received any of the documents referred to in (2) above; and (c) You have deliberately and without legal justification refused to arrest and jail the aforesaid defendants.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Hon. George H. Barlow, Ch. J., U.S.D.C.
cc: Office of the Clerk, U.S.D.C.
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals
for the Third Circuit
cc: Solicitor General
cc: Mr. Myron A. Farber

APPENDIX F

LETTER DATED DECEMBER 22, 1978 TO HONORABLE GEORGE H. BARLOW, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, FROM CLARENCE E. EDMOND

Honorable George H. Barlow, Chief
Judge, United States District Court
for the District of New Jersey
P.O. Box 819
Trenton, New Jersey 08605

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Judge Barlow:

Kindly refer to my letter to you dated October 24, 1978, containing the proposed orders you entered in the matter above on or about October 27, 1978. Mr. Samuel Naples, Supervisor of the Office of the United States Marshal, recently indicated to me that he deliberately and without legal justification refused to arrest the defendants herein (lawyers! and judges! and public officials!) after they failed without cause to forward to me the certified check you ordered them to forward to me no later than November 1, 1978. Mr. Naples' refusal to execute the pertinent orders herein, your Honor, constitutes not only reckless disregard of certain rights secured to me by the Constitution of the United States but also flagrant displays of contempt of court, and clearly poses a substantial threat to future enforcement of the laws of the land.

IN CONSIDERATION WHEREOF I am hereby requesting (1) that you order the marshal to promptly arrest and jail the defendants, and keep them jailed until the aforesaid check has been forwarded to me, and to notify me by way of certificate (with a copy thereof to the clerk of the court), no later than January 10, 1979, as to when and where the defendants are in custody; and (2) that you submit to me a written proposal as to the action you might take against the marshal should he again refuse to act herein in obedience to properly entered judicial commands.

If by Saturday, December 30, 1978, I have not received from you a written statement setting forth a sound legal basis as to why the marshal *should* refuse to arrest the defendants, I will properly expect him to arrest and jail them and to notify me thereof as proposed above, and, further, I will expect to receive from you, also by December 30th, the said proposal respecting your intentions.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Office of the Clerk, U.S.D.C.
cc: Office of the United States Marshal
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals
for the Third Circuit
cc: Solicitor General
cc: Mr. Myron A. Farber

APPENDIX G

LETTER DATED JANUARY 11, 1979 TO HONORABLE GEORGE H. BARLOW, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, FROM CLARENCE E. EDMOND

Honorable George H. Barlow, Chief
Judge, United States District Court
for the District of New Jersey
P.O. Box 819
Trenton, New Jersey 08605

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Judge Barlow:

Please refer to my letter to you of December 22, 1978. Nearly four months have passed since you first ordered the defendants in the above-entitled matter to forward to me a certified check for the amount of TWO HUNDRED FIFTY MILLION, FIVE HUNDRED THOUSAND DOLLARS (\$250,500,000), in consequence of the multiplicity of wrongs that said defendants variously perpetrated against me throughout a period of nearly ten years. Twice, now, you have ordered them to send me the check, and twice they have failed without cause to send it (which places them squarely in contempt of court). The record shows clearly that both the defendants and the Office of the United States Marshal have received from you specific orders they have repeatedly failed to obey, which failures have been, and are yet, working against me a measure of injustice that should not be tolerated by the Court.

The marshal's failure to have carried out the orders you entered herein on December 30th, along with *your* failure to have submitted the written proposal requested of you in the said letter, above, leads me reasonably to suspect

that you have interfered in the past, and are still interfering, with the prompt execution of your own orders herein.

It is generally recognized by the citizens of this country that, to insure our national survival in tranquility or relative harmony, we must continue to cultivate and promote respect for the law and the legal process. This respect cannot, however, endure for long where lawyers and judges and public officials solemnly sworn to uphold the law cast aside the law's protection and make it impossible for us to redress our grievances *within* our system of laws.

In light of the foregoing, you are hereby given notice that unless by Wednesday, January 17, 1979, you have forwarded to me a written proposal as to the action you might take against the marshal herein for his unlawful refusals to have jailed the defendants, your failure so to do shall be taken as an admission that you *have* interfered, and are still interfering, with the prompt execution of your own orders herein.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Office of the Clerk, U.S.D.C.
cc: Office of the United States Marshal
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals
for the Third Circuit
cc: Solicitor General
cc: Mr. Myron A. Farber

APPENDIX H

LETTER DATED JANUARY 18, 1979 TO HONORABLE GEORGE H. BARLOW, CHIEF JUDGE, UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY, FROM CLARENCE E. EDMOND

Honorable George H. Barlow, Chief
Judge, United States District Court
for the District of New Jersey
P.O. Box 819
Trenton, New Jersey 08605

Re: Edmond v. Shore Regional
High School, etc., et al.
File No. 78-1131

Dear Judge Barlow:

Kindly refer to my letter to you dated January 11, 1979. In light of your recent admission to me that you *have* interfered, and are still interfering, with the prompt execution of your own orders herein, I am hereby requesting that you desist and refrain from any further such interference whatsoever, for it not only constitutes violations of certain rights secured to me by the Constitution of the United States but also poses a substantial threat to future enforcement of the laws of the land, and thus exceeds the legitimate powers conferred upon you by law.

In anticipation of your honoring the foregoing request, I am hereby demanding that additional relief be entered herein as follows:

(A) An ORDER directing the clerk of the court to notify the defendants promptly that they have been commanded by the Court to forward to me no later than January 25, 1979 the damages they were to have paid me by

November 1, 1978, and, on the same date (January 25th), to forward to the Court an affidavit, a certificate, or other such instrument, solemnly declaring therein that the damages in question have been forwarded to me in the manner here prescribed by the Court, with copies of such instrument to the United States marshal and to me;

(B) An ORDER providing that if the defendants fail to comply with the provisions set forth in (A) above, the marshal shall arrest them forthwith, and put them in jail and keep them there until the aforesaid damages are paid; and

(C) An ORDER directing and compelling the marshal to certify in writing when and where the defendants are in custody (if it be necessary that he arrest them), the original of said certificate to be forwarded to me, and a copy thereof to the clerk of the court, no later than Tuesday, February 6, 1979.

If the defendants and/or the marshal fail to comply with these orders, their failure so to do shall be recognized and treated as a refusal on your part to stop interfering herein as aforesaid.

Very truly yours,

/s/ Clarence E. Edmond
CLARENCE E. EDMOND,
Pro Se

cc: Office of the Clerk, U.S.D.C.
cc: Office of the United States Marshal
cc: President of the United States
cc: Supreme Court of the United States
cc: United States Court of Appeals
for the Third Circuit
cc: Solicitor General
cc: Mr. Myron A. Farber